

# **MINUTES OF THE UTAH RADIATION CONTROL BOARD**

**February 1, 2008**

**Department of Environmental Quality, DEQ Building 2**

**Conference Room 101**

**168 N 1950 W**

**Salt Lake City, Utah 84114-4850**

## **BOARD MEMBERS PRESENT**

Kent J. Bradford, P.G., Chair  
Stephen T. Nelson, Ph.D., Vice Chair  
Dane L. Finerfrock, Executive Secretary  
Scott Bird  
Patrick D. Cone  
Frank D. DeRosso, MSPH, C.I.H.  
Christian K. Gardner (by Conf Call)  
Elizabeth Goryunova, M.S.  
Peter A. Jenkins, M.S., CHP  
Joette E. Langianese, Commissioner (by Conf Call)  
Joseph K. Miner, M.D., MSPH  
Gregory G. Oman, D.D.S., B.S.  
Richard W. Sprott, DEQ Executive Director  
John W. Thomson, M.D.

## **DEQ/DRC STAFF**

Dean Henderson, DRC Staff  
John Hultquist, Section Manager  
Boyd Imai, DRC Staff  
Craig Jones, Section Manager  
Laura Lockhart, Attorney General's Office  
Loren Morton, Section Manager  
Yoli Necochea, DRC Staff  
Raymond Nelson, DRC Staff  
Bill Sinclair, Deputy Director  
Donna Spangler, DEQ Policy and Planning

## **PUBLIC**

Rebecca Himsl, Resident of Salt Lake  
Ed Firmage, Jr., Resident of Salt Lake  
Mary D. Draper, Resident of Salt  
Phoebe Draper, Resident of Salt Lake  
Janet Owens – Resident of Salt Lake  
George Gates, Resident of Salt Lake  
Michael Fife, Resident of Salt Lake  
Marion Klaus, UT Phys for a Healthy Env.

## **PUBLIC**

Phyllis Snow, Resident of Salt Lake  
Bob Archibald, Resident of Salt Lake  
Rolene Coulter, HEAL-Utah  
Janine Morgan, HEAL-Utah  
Jill W. Loertscher, HEAL-Utah  
Jim Holtkamp, Holland and Hart  
Brian Moench, Utah Phys./Healthy Ed.  
Michael Cowly, Citizen of Salt Lake  
Mark Ledoux, EnergySolutions  
Don Shrum, EnergySolutions  
Jesse Cummings, HEAL-Utah  
Tami Nelson, Student  
Michael Johnson, EnergySolutions  
Tye Rogers, EnergySolutions  
Greg Hopins, EnergySolutions  
Alan Parker, EnergySolutions  
Rebecca Blurenthel, EnergySolutions  
Mark Walker, EnergySolutions  
Bob Brister, Citizen  
Vanessa Pierce, HEAL-Utah  
Neomi Franklin, Citizen  
Tara Maher, Citizen  
Julie Gregersen, Citizen  
Brian Critchmore, Citizen  
Blake Kelthley, Citizen  
Mark Agilliar-EPA, Rocky Flats  
Lupita Paniagus, Utah Clean Energy  
Randy Horiuchi, Salt Lake County Council  
Tina Smitty, Citizen  
Craig Galli, Holland and Hart  
Charles Judd, Cedar Mountain  
Environmental, Inc.  
Cameron Carpenter, Citizen  
James O'Neal, Citizen

## **GREETINGS/MEETING CALLED TO ORDER**

The Utah Radiation Control Board convened in the Department of Environmental Quality (DEQ) Conference Room 101; 168 North 1950 West; DEQ Building 2; Salt Lake City, Utah. Kent J. Bradford, Chair, called the meeting to order at 2:03 p.m. Chairman Bradford welcomed the Board Members and the public. He indicated that if the public wished to address any items on the agenda, they should sign the public sign-in sheet. Those desiring to comment would be given an opportunity to address their concerns during the public comment period.

## **I. APPROVAL OF MINUTES (Board Action Item)**

### **a. Approval of the December 7, 2007 Board Minutes**

Kent J. Bradford, Chair, asked the Board for corrections to the minutes from December 7, 2007. Stephen T. Nelson, Vice Chair proposed the following changes to the Minutes:

1. Page 11, item V.a., under the subtitle: "Second Speaker," in the last paragraph which reads: "he is in **Kirk Rambles** District." Change it to read: "Curtis Branbel's . . ."

Kent J. Bradford, Chair, proposed the following changes to the Minutes:

2. Page 20, item VII.b., under the subtitle: "Questions by the Board," 2<sup>nd</sup> sentence which reads: "maybe we need some **vital** zone-monitoring to detect." Change it to read: "vadose. . ."

**MOTION MADE BY ELIZABETH GORYUNOVA TO APPROVE THE MINUTES WITH THE PROPOSED CHANGES.**

**SECONDED BY SCOTT BIRD**

**THE MOTION CARRIED AND PASSED UNANIMOUSLY**

## **II. RULES (Board Action Item)**

### **a. Proposed Rule R313-12-11, "Submission of Electronic Copies"**

Laura Lockhart, Attorney General's Office, addressed the Board on proposed rule R313-12-11. She said that because of public comments received by the Division, amendments were made to the rule. She said that some exemptions were made to the requirement to submit electronic copies. The exemptions are: payments, security-sensitive documents and public comments. Many of those providing public comment said they did not like the 25 page limit for electronic submission, but for administrative reasons the 25 page limit could not be changed. Laura Lockhart asked the Board to approve the amended rule and send it out for public comment.

**MOTION MADE BY RICHARD W. SPROTT TO APPROVE R313-12-11, AS WRITTEN, AND TO SEND IT OUT FOR PUBLIC COMMENT.**

**MOTION WAS SECONDED BY GREGORY G. OMAN.**

**KENT J. BRADFORD, CHAIR CALLED A VOTE ON THE MOTION. THERE WERE THREE OPPOSED: STEPHEN T. NELSON, JOETTE E. LANGIANESE, AND PATRICK D. CONE. THE REST OF THE BOARD APPROVED THE MOTION.**

**THE MOTION CARRIED AND PASSED BY THE MAJORITY**

**b. Proposed Rule R305-3, “Emergency Meeting”**

Laura Lockhart, Attorney General’s Office, addressed the Board on Proposed Rule R305-3. In emergencies R305-3 made additional requirements in order to have an emergency meeting. In a “real emergency,” the additional requirements in R305-3 would be difficult. Ms. Lockhart asked the Board to repeal R305-3.

**MOTION MADE BY SCOTT BIRD TO REPEAL R305-3.**

**MOTION WAS SECONDED BY FRANK D. DeROSSO.**

**KENT J. BRADFORD, CHAIR CALLED A VOTE ON THE MOTION. STEPHEN T. NELSON, VICE CHAIR ABSTAINED FROM THE VOTE.**

**THE MOTION CARRIED AND PASSED BY THE MAJORITY**

**III. RADIOACTIVE MATERIALS LICENSING/INSPECTION**  
**No Items**

**IV. X-RAY REGISTRATION/INSPECTION**  
**No Items**

**V. RADIOACTIVE WASTE DISPOSAL (Board Information Item)**

**a. Update: Funding of the Perpetual Care Fund for EnergySolutions**

Dane L. Finerfrock, Executive Secretary, said in October 2006 the Board submitted a report to the legislature about the Perpetual Care Fund. EnergySolutions has been paying \$400,000 per year into the Perpetual Care Fund; however, this would take a significant amount of time to accumulate \$13 million dollars for the perpetual care of the site. The Board was concerned because closure of the site could happen at anytime. As a result of negotiations with EnergySolutions, EnergySolutions has offered to continue to pay \$400,000 per year and to also provide a Letter of Credit to fund the remainder. Currently, the cash balance in the Perpetual Care Fund is 2.6 million dollars. With the Letter of Credit, the \$13 million for the perpetual care of the site after site closure is fully funded.

**b. Update: License Renewal for EnergySolutions – License UT2300249  
(Board information item)**

Loren Morton, Manager, updated the Board on this item. Mr. Morton said that the license renewal was discussed at the September 2007 Board Meeting. Since that time, it has gone out for public comment. The Division received three comments: *EnergySolutions*, HEAL-Utah, and Charles Judd. There were about 60 pages of written comments. Each comment has been addressed in a Public Participation Summary, prepared by the Division. The Public Participation Summary is available on Radiation Control's web site: [http://www.radiationcontrol.utah.gov/Rules/licensing\\_actions.htm](http://www.radiationcontrol.utah.gov/Rules/licensing_actions.htm).

As a result of the comments, there have been three major changes to the License: 1) condition 27 added a "container release definition;" 2) condition 39F added as a prohibition for "the disposal of non-containerized, decomposable, comprisable debris at the containerized waste facility;" and 3) a condition was added for *EnergySolutions* to maintain "an annual evaluation report of the gravel resources available in section 24." The purpose for the annual, gravel-evaluation report is to ensure there are resources available for DRC to close the embankment in the event the Surety is needed. Mr. Morton said that *EnergySolutions'* license renewal was executed on January 25, 2008.

**PUBLIC COMMENT:**

Vanessa Pierce, Executive Director, HEAL-Utah, addressed the Board. Ms. Pierce asked the Board to prohibit the disposal of large amounts of depleted uranium. She said the disposal of large amounts of depleted uranium was never classified by the Federal Government. The NRC excluded large amounts of depleted uranium from the Environmental Impact Statement (EIS), and the EIS forms the basis of the Federal Government's low-level waste, classification system. She said she considers it to be a regulatory loophole. She cautioned the Board that if *EnergySolutions'* license renewal was approved, HEAL-Utah would consider taking the following actions: HEAL-Utah will ask the Board to create a rule regarding the classification of uranium, and will formally appeal the Board's decision to renew *EnergySolutions'* license. (Please note: HEAL-Utah's written public comments and the Divisions responses are available on DRC's web site, [http://www.radiationcontrol.utah.gov/Rules/licensing\\_actions.htm](http://www.radiationcontrol.utah.gov/Rules/licensing_actions.htm))

Charles Judd, Cedar Mountain Environmental Inc., addressed the Board Mr. Judd said he disputed *EnergySolutions'* volume capacity. He said he had also raised other issues, and that the DRC had not sufficiently responded to his written public-comments. He said the only option left for him would be to file an appeal. Because of the technical nature of the appeal, Mr. Judd asked for 90 days to prepare the appeal. (Please note: Mr. Judd's written public comments and the Division's responses are available on the DRC web site: [http://www.radiationcontrol.utah.gov/Rules/licensing\\_actions.htm](http://www.radiationcontrol.utah.gov/Rules/licensing_actions.htm))

Tye Rogers, *EnergySolutions*, said that on numerous occasions Charles Judd had made public comments to the Board on *EnergySolutions'* site's disposal capacity. He said that the public notice had been extended to 60 days, and he felt that Mr. Judd had ample opportunity to provide comments. Mr. Rogers said that there were no new

issues. He asked that the Board to follow the statute and only allow 30 days for appeals to be filed. He said if an appeal was filed or if there were new comments on *EnergySolutions*' license renewal that *EnergySolutions* would like to have the opportunity to provide a written response.

Laura Lockhart, Attorney General's Office, recommended that the Board follow the procedures created for appeals (Notice of Agency Action).

**Kent J. Bradford, Chair, asked the Board to allow Mr. Judd 60 days to file his appeal. The Board members agreed to grant Mr. Judd an extension to file his appeal. They granted 60 days.**

Charles Judd, Cedar Mountain Environmental Inc., agreed to accept the 60 days as adequate to file his appeal.

Brian Critchmore, Citizen, Teacher and Father, opposed *EnergySolutions*' license renewal. He said he would like to leave the world a better place for his children. He said that a lot of the public did not know this was happening, and he said he was very concerned about bringing waste from another country into Utah for disposal. In addition, he was concerned about other issues that would come to Utah by allowing foreign waste to be disposed of at *EnergySolutions*. He asked the Board not to grant the *EnergySolutions*' license renewal.

**c. Briefing: Investigations of "Glove Box" Disposal from Rocky Flats at *EnergySolutions* (Board information item)**

Patrick D. Cone said that on February 14, 2007, he was contacted by a person that wanted to remain anonymous. The person believed that some of the waste from Rocky Flats was mischaracterized by Kaiser Hill. He believed the plutonium levels of the shipments were characterized too low, and they were not believable. Mr. Cone said he gave the information to Kent J. Bradford, Chair, and Richard W. Sprott, Executive Director. The DEQ investigated the concerns. Mr. Cone said that Mark Aguillar from the EPA also investigated the person's concerns.

Kent J. Bradford, Chair, asked Mark Aguillar, the Rocky Flats Team Leader for the EPA, to explain his findings to the Board.

Mark Aguillar said the anonymous person was concerned there were mischaracterized waste shipments from Rocky Flats, and he was concerned with the glove boxes, the rasching rings and the exposure to the employees. On March 23, 2007, all of the questions directed to *EnergySolutions* were answered by Tye Rogers regarding the off-site rule, shipments of rasching rings and the glove boxes.

The EPA did not have regulatory authority; consequently, the EPA contacted the DNFSP, NRC, Utah, Colorado and the Legacy and EM Group to find out if they were aware of the workers receiving exposure. In addition, the EPA tried to find out if any

of the federal agencies were going to do anything about it. Each of the federal agencies responded that they did not have regulatory authority.

The states had regulatory authority. The State of Utah, Department of Environmental Quality (DEQ), investigated dose exposure. They found them to be well within the adult dose-limit of 20 to 60 millirems. In April 2007, a letter was written by the two experts that did the findings for this case: Terry Brown and Eric Johnson. They determined that the proper waste was shipped to *EnergySolutions* and there were no violations to the off-site rule. The “findings letter” will be kept on record with the Division.

**d. Discussion of Foreign Waste Disposal at *EnergySolutions* (Board action item)**

Kent J. Bradford, Chair, asked Laura Lockhart, Attorney General’s Office, to report on her research on the Board’s authority on the issue of foreign waste.

Laura Lockhart, AGO, gave her informal opinion. She distributed a document on the Board’s rulemaking authority. She said the Board does not have authority over foreign waste. The compact has authority.

Stephen T. Nelson, Vice Chair read a Position Statement that the Board asked him to create. The Position Statement objects to Utah’s receiving foreign waste: “The Utah Radiation Control Board opposes the importation of foreign waste for disposal in the State of Utah. Even if such wastes do not represent any incremental risk to public health and safety, it is certainly an issue of concern to citizens of Utah. It is unseemly that a country that has the technological capacity of producing nuclear power within its borders should seek to dispose of its waste outside of them. Ultimately, the importation of such waste fails to benefit the citizens of Utah, but it also reduces the need for the country of origin to solve its own waste disposal issues.”

Joseph K. Miner, M.D., said that because of the Board’s limited authority, he did not think the Board should adopt a Position Statement.

Kent J. Bradford, Chair, asked Laura Lockhart, AGO, if the Position Statement would carry the weight of law.

Laura Lockhart, AGO, said in order for the Board to be effective, the Board could direct the Board’s Position Statement to the NRC and Congress. She said that Congress had the power to regulate foreign commerce.

The Board listened to the public comments and continued their discussion about foreign waste being disposed of at the *EnergySolutions* site in Utah.

**MOTION MADE BY PATRICK D. CONE FOR DEQ’S EXECUTIVE DIRECTOR TO WRITE A LETTER TO THE GOVERNOR OF UTAH, THE**

**U.S. NRC AND TO THE ELECTED DELEGATION. HE ASKED THAT THE EXECUTIVE DIRECTOR INCLUDE THE FOLLOWING LANGUAGE: “THE UTAH RADIATION CONTROL BOARD OPOSSES THE IMPORTATION OF FOREIGN WASTE FOR DISPOSAL IN THE STATE OF UTAH. WE ENCOURAGE THE U.S. NRC AND U. S. CONGRESS TO ADOPT A NATION WIDE LOW-LEVEL RADIOACTIVE WASTE PLAN TO ENSURE DOMESTIC CAPACITY FOR OUR OWN USE. ULTIMATELY, THE IMPORTATION OF SUCH WASTE FAILS TO BENEFIT OUR CITIZENS, AND IT IS AN ISSUE OF CONCERN FOR THE CITIZENS OF UTAH.”**

**MOTION WAS AMENDED BY PATRICK D. CONE THAT THE DRAFT LETTER BE BROUGHT TO THE MARCH BOARD MEETING TO BE APPROVED.**

**THE MOTION, AS AMENDED, WAS SECONDED BY FRANK D. DEROSSO**

**KENT J. BRADFORD, CHAIR CALLED A VOTE ON THE MOTION. KENT J. BRADFORD, CHAIR ABSTAINED FROM THE VOTE.**

**THE MOTION CARRIED AND PASSED BY THE MAJORITY**

Patrick D. Cone and Stephen T. Nelson, Vice Chair agreed to draft the letter. Kent J. Bradford, Chair asked the Division to circulate the draft-letter by e-mail to all of the Board Members, prior to the March meeting.

**VI. URANIUM MILL LICENSING AND INSPECTION**  
No Items

**VII. OTHER DIVISION ISSUES**  
No Items

**VIII. PUBLIC COMMENT**

**Please refer to Item V. b., for comments from the public on this item.**

**The following public comments were made on Item V. d., “Foreign Waste Disposal at EnergySolutions”:**

James O’Neal, Citizen, is opposed to foreign waste. He apologized to the Board and Public for not being able to give his slide presentation. He said he was concerned about the Board making a precedent that would allow foreign waste into the United States and into Utah. He said that South Carolina created laws not to allow foreign waste, and asked the Board to consider creating similar laws. He cautioned the Board that what they do is very important, and it will affect Utah’s future.

Vanessa Pierce, Executive Director HEAL- Utah, is opposed to the foreign waste. She asked the Board to write a letter to NRC and to write a Position Statement. She said that she would like to see the Governor or the compact representative address the foreign waste issue. She said under R19-3-103-5 the Board has authority to prevent the depletion of natural resources. She said that Italy does not have disposal capacity, but Italy does have plans to build disposal capacity. She said Utah is setting a precedent to accept waste from other countries.

Michael Cowly, Citizen, is opposed to the foreign waste. He said the NRC has “loop holes” regarding foreign waste. He said the NRC has approved the creation of thirty-one nuclear plants. He asked the Board to delay the approval of EnergySolutions’ license, until NRC approves a foreign waste policy. He said that Barnwell, South Carolina was able to “get around” international commerce and is not receiving foreign waste. He asked the Board to look into South Carolina’s policies for foreign waste.

Rebecca Hemsal, Citizen, is opposed to foreign waste. She said that she has lived in Utah for forty five years. She said it would be reprehensible to allow foreign waste into Utah, since the majority of the people in Utah do not want radioactive waste. She said that the Deseret News and Salt Lake Tribune reported that well over eighty percent of the people in Utah do not want any type of radioactive waste in Utah. She said that accepting foreign waste into Utah would be contrary to the ideals of a representative democracy. She asked the Board and the NRC to consider the possibility of the waste polluting the oceans and the fisheries within the oceans. She said that Utah and the United States should not be the dumping ground for the world’s radioactive waste. She said that if Utah becomes known for receiving the world’s radioactive waste, no one will want to hunt, fish or camp in Utah. She asked the Board to “please not grant the license.”

Ed Fermage, Jr, , Salt Lake County Resident is opposed to foreign waste. He asked the Board to use their public servant position as a “bully pulpit” to oppose foreign waste. He asked the Board to represent the views of the citizens of Utah who are overwhelmingly opposed to radioactive waste. He asked the Board to do what other public representatives have not done. He said it would be reprehensible to bring waste into Utah from Italy when Italy has not made a way to deal with it. He said the waste will exist on Earth for ten thousand years. He said that ten thousand years is an immense period of time. He asked the Board to consider the progress that humans have made over the past ten thousand years. He said ten thousand years ago humans did not have a written language. He asked the Board to take a path of caution and to be more restrictive.

Mary Draper, Salt Lake County Resident, is opposed to foreign waste. She said that she appreciates the public forum to make public comment. She said that she would be proud of the Board Members if they elected to “show courage and back bone” and did the right thing for the Country and for the State of Utah. She said that Utah is competing with other states to bring good businesses and jobs to Utah. She said that



Utah is spending tax payer's dollars to attract good businesses. She said other countries should deal with their own garbage, and Utah should not facilitate another country's failure to manage their radioactive waste. She asked the Board to adopt Dr. Nelson's Position Statement. She said that Bob Archibald was not able to remain to make his public comment. Mr. Archibald also wants the Board to know that he supports Dr. Nelson's Position Statement.

Michael Fife, Salt Lake City Resident, is opposed to foreign waste. She said that foreign countries should deal with their own radioactive waste. She said that EnergySolutions is a finite facility and priority should be given to the United States. She asked the Board to contact Utah's congressional delegation, the governor and the NRC.

Brian Moench, President of Utah Physicians for a Healthy Environment, is opposed to foreign waste. He said there has been little said about public health, and he said everyone needed to be advocates of public health. He said the 1980, air-quality modeling that was used to measure back ground, radiation levels is no longer valid, and the back ground radiation needs to be calculated for the radiation occurring now. He said the effect of radioactive activity from mining and radioactive waste disposal on public health is underestimated. He said the health risks are unknown and the benefits are minimal—the risk/benefit analysis is astonishingly unfavorable. He said that when the risks are unknown then we need to protect public health.

Steve Erickson, Citizen, is opposed to foreign waste. Mr. Erickson was not present, but his written statement was distributed to the Board.

Tara Mahler, Environmental and Earth Sciences Teacher in Salt Lake City, is opposed to foreign waste. She said it is short sighted to accept nuclear waste from Italy. She said "we need to have an ethic of stewardship and responsibility." She asked the Board to "boldly adopt a formal position against receiving foreign waste."

Tye Rogers, EnergySolutions, approves of Utah's receiving foreign waste. He said the majority of the 20,000 tons of waste will be recycled. He said significant amounts of radioactive waste have already been received by the United States from Canada. He said that the air quality modeling was updated in 2005, and the air modeling is being conducted around the EnergySolution's site continuously.

**IX. Next Scheduled Board Meeting: March 7, 2008 at 2:00 p.m. at DEQ Bldg. 2, Conference Room 101, 168 North 1950 West, Salt Lake City, UT**

**THE BOARD MEETING ADJOURNED AT 5:00 P.M.**